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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/603,857	06/26/2003	Edouard Koulik	P-8240.01	1473
27581	7590	11/16/2004		
MEDTRONIC, INC. 710 MEDTRONIC PARKWAY NE MS-LC340 MINNEAPOLIS, MN 55432-5604				
EXAMINER KEEHAN, CHRISTOPHER M				
ART UNIT		PAPER NUMBER		
1712				

DATE MAILED: 11/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/603,857

Applicant(s)

KOULIK, EDOUARD

Examiner

Christopher M. Keehan

Art Unit

1712

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 26 June 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 9-11, 17 and 19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 9, 11, 17 and 19 is/are rejected.
- 7) ☐ Claim(s) 10 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 6/26/03.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Double Patenting***

Claims 9 and 11 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 4-6, 7-9, 11, and 12 of U.S. Patent No. 5,607,475. Although the conflicting claims are not identical, they are not patentably distinct from each other because the present claims are directed toward a heparin-polyoxyalkylenepolyamine adduct, which encompasses the claimed subject matter of claims 1, 4-6, 7-9, 11, and 12 of 5,607,475, which claims a medical article comprising a biomolecule of heparin covalently attached to a polyalkyleneimine spacer, and the surface of the article being coated therewith. The cited application does not include the silane as claimed in 5,607,475.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 17 and 19 are rejected under 35 U.S.C. 102(e) as being anticipated by Whitbourne et al. (6,110,483). Whitbourne et al. disclose an object comprising a quaternary ammonium heparin complex, more specifically a benzalkonium complex

(col.8, lines 59-67) and a cured silicone (col.5, lines 53-56). Although Whitbourne et al. do not appear to specifically disclose that the silicone is cured, it is the examiner's position that cured silicone of Whitbourne et al. is inherently disclosed because the silicone in Whitbourne et al. is used as a substrate, and if the silicone was not cured, the silicone could not act as a substrate.

### ***Allowable Subject Matter***

Claim 10 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. A reasonable search of the prior art of record failed to reveal the limitations as set forth in claim 10, specifically a polysiloxane.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hsu et al. (5,541,167) disclose a quaternary ammonium heparin complex in a mixture containing polydimethylsiloxane (Abstract), and drying the coating (Examples). Hsu et al. do not teach or disclose curing the polydimethylsiloxane. Solomon et al. (5,061,738) disclose a quaternary ammonium heparin complex and silicone oil, and drying the coating (Example 1). Solomon et al. do not teach or disclose curing the silicone oil.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher M. Keehan whose telephone number is

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(571) 272-1087. The examiner can normally be reached on Monday-Friday, from 6:30 to 3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Randy P. Gulakowski can be reached on 571-272-1302. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Christopher Keehan

October 26, 2004

*Christopher Keehan*  
*Art Unit 1712*  
*cmh*